

In the Matter of)
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Verizon Communications Inc.) File No. EB-03-TC-125

Released: March 2, 2005

⁴⁴⁷ 47 C.F.R. § 54.401(a)(2); *In the Matter of Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 8957, ¶ 341(1997), *affirmed in part, reversed in part and remanded in part sub nom. Texas Office of Public Utility Counsel v. FCC*, 183 F.3d 393 (5th Cir. 1999), *cert. denied*, 530 U.S. 1210 (2000), *cert. dismissed*, 531 U.S. 975 (2000).

service.⁵ Recognizing the unique needs and characteristics of tribal communities, Lifeline and Link-Up provide qualifying low-income individuals living on tribal lands with larger discounts than any other group, *i.e.*, up to \$25 more in monthly Lifeline support and \$70 more in Link-Up discounts.⁶

3. Verizon is an eligible telecommunications carrier (“ETC”) in 14 states,⁷ *i.e.*, a telephone company eligible to receive universal service support in accordance with Section 254 of the Act.⁸ Verizon indicates that it serves 67 tribes in its 14-state region.⁹ On October 7, 2003, based on concerns raised informally with the Bureau by tribal leaders, the Bureau sent a Letter of Inquiry (“LOI”) to Verizon¹⁰ to investigate whether Verizon was satisfying its obligation under Sections 54.405(b) and 54.411(d) of the Commission’s rules to publicize the availability of Lifeline and Link-Up services to low-income residents on tribal lands “in a manner reasonably designed to reach those likely to qualify” for those services.¹¹ The LOI directed Verizon to describe actions it had taken to satisfy Sections 54.405(b) and 54.411(d) and to support its response with recordings or transcripts of any radio or television advertisements, written material, or narrative descriptions with accompanying documentation of any other outreach, such as coordination with social service agencies, contact with tribes that administer any relevant government assistance programs, or personal letters to eligible customers. Based on Verizon’s response, the Bureau sent a second LOI to Verizon on April 6, 2004¹² and later directed Verizon to clarify and supplement its earlier LOI responses.¹³

III. DISCUSSION

4. The Commission’s Lifeline and Link-Up outreach rules give an ETC some flexibility in deciding the type and frequency of outreach that is “reasonably designed to reach those likely to qualify” for the services. In applying the outreach rules to tribal lands, however, the Commission stated that it was concerned that eligible subscribers may not be aware of the discounts.¹⁴ The Commission further

⁵47 C.F.R. § 54.411(a)(1).

⁶47 C.F.R. §§ 54.403(a)(4), 54.411(a)(3). “Tier four” support provides eligible subscribers living on tribal lands up to an additional \$25 per month towards reducing basic local service rates, but this discount can not bring the subscriber’s cost for basic local service to less than \$1. *See* 47 C.F.R. § 54.403.

⁷Verizon has been an ETC in the following 14 states since 1998: Arizona, California, Florida, Idaho, Maine, Massachusetts, Michigan, Nevada, New York, North Carolina, Oregon, Rhode Island, Washington and Wisconsin. *See* Letter from Kathleen Grillo, Vice President, Federal Regulatory Advocacy, Verizon, to Cynthia Bryant, Attorney, FCC (Apr. 27, 2004) (“Second LOI Response”).

⁸47 U.S.C. § 254.

⁹ Second LOI Response at Exhibit 1.

¹⁰*See* Letter of Inquiry from Colleen Heitkamp, Chief, Telecommunications Consumers Division, Enforcement Bureau, to Suzanne Carmel, Verizon (Oct. 7, 2003) (“First LOI”).

¹¹47 C.F.R. §§ 54.405(b), 54.411(d). Based on concerns that low-income residents on tribal lands may not be aware of the benefits of Lifeline and Link-Up, the scope of the investigation was limited to Verizon’s efforts to publicize Lifeline and Link-Up to eligible residents on tribal lands.

¹²*See* Letter of Inquiry from Colleen Heitkamp, Chief, Telecommunications Consumers Division, Enforcement Bureau, to Suzanne Carmel, Verizon (April 6, 2004) (“Second LOI”).

¹³*See* Email from Cynthia Bryant, Attorney, FCC, to Kathleen Grillo, Vice President, Federal Regulatory Advocacy, Verizon (Nov. 30, 2004).

¹⁴*See In the Matter of Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Twelfth Report and Order, 15 FCC Rcd 12208, 12249, ¶ 76 (2000) (“*Twelfth Report and Order*”).

expressed an expectation that ETCs would have a system of evaluating the need for and the most appropriate efforts of outreach to tribal communities.¹⁵

5. Verizon states that it publicized Lifeline and Link-Up to 11 tribes in six states in late 2000 through January 2001 via social service agencies, tribal newspapers, and senior citizen centers.¹⁶ Verizon did not renew its Lifeline or Link-Up outreach efforts to any of these tribes again until December 2003 in Wisconsin,¹⁷ and February 2004 in the other five states,¹⁸ which came after the Bureau's first LOI in October 2003. In sum, Verizon allowed more than two-and-a-half to three years to elapse between outreach efforts directed to these 11 tribes.

6. Although the Commission's rules do not include a specific statement specifying how frequently carriers must conduct Lifeline and Link-Up outreach, we nevertheless conclude that a delay of approximately three years in providing outreach to these 11 tribes does not fulfill Verizon's obligation to publicize Lifeline and Link-Up "in a manner reasonably designed to reach those likely to qualify." Several factors support our conclusion. First, as the Commission recently noted, only one-third of eligible low-income residents subscribe to Lifeline and Link-Up.¹⁹ Thus, regular outreach is necessary to reach the substantial portion of eligible subscribers who do not currently take advantage of the discounts. Second, eligibility criteria²⁰ and individual income levels change regularly such that persons who may not qualify in one year may qualify the next. Third, eligible individuals may move onto tribal lands and, absent regular outreach, may not be aware that they qualify for the unique discounts available to residents on those lands. Thus, a reasonably designed outreach program must be ongoing and frequent to ensure that new and existing eligible consumers are aware of the benefits of the discount programs.²¹ Verizon's lack of outreach for these 11 tribes left potential beneficiaries without Lifeline and Link-Up information for a significant period of time and is therefore not reasonable under the Act and the rules.

7. Our finding is supported by Verizon's apparent ad-hoc approach to compliance. After its initial outreach to the 11 tribes in six states in late 2000 and early 2001, which came shortly after the Commission's outreach rules took effect, the record indicates that Verizon's next action with respect to these tribes came only after the Bureau's initial LOI in October 2003. It appears that Verizon did not have any system or procedure for monitoring outreach needs and taking appropriate action for these tribal lands and states. In the future, we expect Verizon and other ETCs to take a proactive rather than reactive approach to complying with Section 214(e)(1)(B) of the Act, and Sections 54.405(b) and 54.411(d) of the Commission's rules.

¹⁵*Id.* at 12250, ¶ 79.

¹⁶Letter from Sara Cole, Associate Director, Federal Regulatory Advocacy, Verizon, to Lynn Vermillera, Attorney, FCC (Nov. 24, 2003) ("First LOI Response") at VZ-FCC 0493. The six states are Idaho, Michigan, North Carolina, Nevada, Oregon, and Wisconsin. This admonishment applies only to Verizon's lack of outreach to the 11 tribes in these states. We make no finding regarding Verizon's outreach to the remaining 56 tribes it serves.

¹⁷First LOI Response at VZ-FCC 0519.

¹⁸*See* Second LOI Response at VZ-FCC 2192-99, 2101-2305, 2310-24; *see also* email from Kathleen Grillo, Vice President, Federal Regulatory Advocacy, Verizon, to Cynthia Bryant, Attorney, FCC (Dec. 10, 2003) at Exhibit 1.

¹⁹*See In the Matter of Lifeline and Link-Up*, WC Docket No. 03-109, Report and Order and Further Notice of Proposed Rulemaking, 19 FCC Rcd 8302, 8305, ¶ 1 (2004).

²⁰*See, e.g., id.* at 8308-09, ¶ 10 (changing the federal default eligibility criteria for Lifeline and Link-Up to 135% of the Federal Poverty Guidelines, among other things).

²¹The Commission recently provided examples of effective frequent outreach. *See e.g., id.* at 8327-28, ¶ 46 (stating that carriers, among other things, "may wish to send regular mailings" as a means of reaching households that do not currently have telephone service).

8. Notwithstanding Verizon's violations of the Act and the Commission's rules, we do not propose a forfeiture at this time. Section 503(b)(6) specifies that a proposed forfeiture must be issued against a common carrier for violations of the Act or the Commission's rules within one year of the occurrence of the violation.²² Because Verizon undertook renewed outreach efforts in these six states within the last year, we are constrained from pursuing a proposed forfeiture at this time. Nevertheless, we will closely monitor Verizon's outreach efforts to ensure future compliance with the Act and the Commission's rules.

IV. CONCLUSION AND ORDERING CLAUSES

9. After reviewing the record, we find that Verizon's failure to publicize Lifeline and Link-Up for approximately three years for 11 tribes in its service area violates Section 214(e)(1)(B) of the Act, and Sections 54.405(b) and 54.411(d) of the Commission's rules.²³ Accordingly, IT IS ORDERED THAT, Verizon IS ADMONISHED for failing adequately to publicize Lifeline and Link-Up for 11 tribes in its service area in violation of Section 214(e)(1)(B) of the Act,²⁴ and Sections 54.405(b) and 54.411(d) of the Commissions rules.²⁵

10. It is further ordered that Verizon shall file a report with the Enforcement Bureau within 60 days of this Order detailing its plans for future compliance with the Act and the Commission's rules and orders regarding the obligation to advertise the availability of Lifeline and Link-Up "in a manner reasonably designed to reach those likely to qualify" for the services.²⁶

11. IT IS FURTHER ORDERED that a copy of this Memorandum Opinion and Order shall be sent by Certified Mail Return Receipt Requested to Kathleen Grillo, Vice President, Federal Regulatory Advocacy, Verizon, 1300 I Street NW, Suite 400 West, Washington, DC, 20005.

FEDERAL COMMUNICATIONS COMMISSION

David H. Solomon
Chief, Enforcement Bureau

²² 47 U.S.C. § 503(b)(6).

²³ 47 C.F.R. §§ 54.405(b), 54.411(d).

²⁴ 47 U.S.C. § 214(e)(1)(B).

²⁵ 47 C.F.R. §§ 54.405(b), 54.411(d).

²⁶ See 47 C.F.R. §§ 54.405(b), 54.411(d).